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Paper No. 10

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In re application of
Howard L. Operowsky et al.
Application No. 09/676,598
Filing Date: September 29, 2000
Attorney Docket No. BOC9-2000-0005US1

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2003, to revive the above-identified application. The decision mailed April 15, 2003 is vacated.

The petition is Dismissed.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 7, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 8, 2002.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item (s) (1).

As to item (1), Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, in including the fee set forth in 37 CFR 1.17(e) and a submission, filed on March 5, 2003. The submission, however, is not fully responsive to the prior Office action because the request was not accompanied by a submission as required by 37 CFR 1.114. In view thereof, at this time the application cannot be revived. See 37 CFR 1.135(c) and MPEP § 706.07(g).

Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



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